

Date of decision: 20-3-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.K. KESHOTE, J  
(20-3-1996)

Mr. S.M. Mazgaonkar for the petitioner.  
Mr.D.A.Bambania for the respondents.

ORAL JUDGMENT:

Heard the learned counsel for the parties.

The petitioner filed the present petition before this Court with prayer for setting aside the charge sheet dated 28th March, 1987 served upon him on 1-4-1987.

2. The petitioner had retired from service on 31st March, 1987. The learned counsel for the petitioner has raised several contentions in the writ petition. But I do not consider it necessary to advert to all. The writ petition deserves acceptance on one ground. The charges alleged against the petitioner are not of very serious nature, of misappropriation of Government money or embezzlement. The charges relate to the year 1981-82 for which charge sheet was given at the fag end of retirement of the petitioner. The very fact that the charge sheet was given to the petitioner after his retirement, and after five to six years of the alleged misconduct, shows that the respondents have also not considered it serious. After such long time, and after retirement of the petitioner, there may be difficulties for both the petitioner and the respondents to lead evidence. The inquiry has been stayed by this Court and it remained stayed for all these years.

3. Taking into consideration the fact that the misconduct alleged is of the year 1981-82 and the charge sheet was given after about five to six years, the petitioner has already retired from service prior to the service of the charge sheet and this Court has stayed the inquiry, I do not consider it a fit case where any purpose will be served now by vacating the stay order and directing the respondents to hold the inquiry. In effect the matter stands concluded by the interim relief itself. After lapse of time equity has also come into play in favour of the petitioner. No useful purpose will be served to hold the inquiry on such charges against a retired person. Therefore I consider it to be in the interest of justice to dispose of the writ petition in terms of the interim order, i.e. with the direction that no inquiry is called for in the matter.

4. In the result this writ petition succeeds and the charge sheet at annexure-E is quashed. Rule made absolute accordingly. No order as to costs.